

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 29, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ERIKA HENRY and DANIEL
HENRY, wife and husband, K.H., a
minor child, and B.H. a minor child,

Plaintiffs,

v.

WASHINGTON STATE
DEPARTMENT OF HEALTH,
UMAIR A. SHAH, JESSICA
TODOROVICH, ROY CALICA, and
JOHN DOES 1-10,

Defendants.

No. 2:22-cv-00046-MKD

PROTECTIVE ORDER

At the August 25, 2022 hearing, the Court heard argument on Plaintiffs' proposed protective order. Marshall Casey and Marcus Sweetser appeared on behalf of Plaintiffs. Jacob Brooks appeared on behalf of the Defendants.

Defendants have requested Plaintiffs' mental health and tax records and the Plaintiffs have agreed to comply with Defendants' request subject to a protective order. For the reasons stated on the record and pursuant to Federal Rule of Civil

1 Procedure 26(c), the Court finds good cause to issue Plaintiffs' proposed protective
2 order.

3 Accordingly, the parties shall abide by the following protective order:

4 **PROTECTIVE ORDER**

5 Plaintiffs' mental health and tax records shall be marked "Confidential" and
6 referred to herein as Confidential Information.

7 **1. Use of Confidential Materials**

8 With respect to the handling and use of Confidential Information it is agreed
9 as follows:

10 1.1 Basic Principles. The Confidential Information shall be used solely for
11 the purposes of this lawsuit and for no other purpose. Confidential Material shall
12 not be copied, reproduced or summarized except for the extent necessary in this
13 lawsuit.

14 1.2 Disclosure of "Confidential" Information. The Parties and their counsel
15 agree to maintain the confidentiality of the abovementioned records produced, and
16 not to distribute or otherwise communicate such information to any person who is
17 not a party or not representing the parties in this litigation and shall only disclose
18 information to non-party experts or other personnel as necessary to facilitate this
19 litigation only. The parties, counsel for the respective parties, insurance adjusters,
20 expert witnesses, and all non-party disclosure (including assistants and other

1 personnel), as recipients of any Confidential Information shall be apprised of this
2 agreement and exercise due care with respect to storage, custody, and use of all
3 such Confidential Information to ensure access is limited to persons authorized by
4 this order.

5 If the records are marked as exhibits at deposition, the exhibits shall be
6 sealed in an envelope marked "Confidential" at the conclusion of the deposition
7 and shall only be accessed by legal counsel as necessary for purposes of this
8 litigation.

9 The parties shall not file Confidential documents with the Court in support
10 of a pretrial motion without first giving opposing counsel reasonable advance
11 notice of their intent to do so and/or unless the documents are filed under seal.

12 Neither party will seek to introduce the documents marked "Confidential" as
13 evidence at trial without first giving opposing counsel reasonable advance notice of
14 their intent to do so and/or unless the documents are filed under seal; provided,
15 however, a party may offer the documents marked "Confidential" as impeachment
16 evidence if an expert's or party's trial testimony relating to a material issue in the
17 case contradicts what is reflected in the records.

18 **2. Destruction of Material**

19 Except as otherwise agreed in writing by Plaintiffs, or upon order by the
20 Court, at the conclusion of this action (whether by settlement or otherwise resolved

1 on the merits at trial) all Confidential Information received in written or tangible
2 form, including copies, reproductions or other media containing such Confidential
3 Information, shall be promptly sequestered by and returned to counsel for either of
4 the respective parties. Upon request, at the conclusion of this action, defense
5 counsel shall certify that such records have been permanently deleted in all
6 physical and electronic forms to the extent permitted by applicable legal rules.

7 **3. Enforceability**

8 Any violation of this Protective Order can trigger certain rights under
9 Washington Civil Rules available to the witnesses and parties.

10 The terms of this Protective Order shall survive any settlement,
11 discontinuance, dismissal, severance, judgment, or other disposition of this case
12 and the Court shall continue to retain jurisdiction over the Parties and recipients of
13 the Confidential Information to enforce the terms of this Protective Order.

14
15 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
16 Order and provide copies to the parties.

17 DATED August 29, 2022.

18 s/Mary K. Dimke
19 MARY K. DIMKE
20 UNITED STATES DISTRICT JUDGE